

# SENATE NO. 770

## **AN ACT** RELATIVE TO GOVERNMENTALLY INVOLVED HOUSING IN THE CITY OF QUINCY

*Be it enacted by the Senate and House of Representatives in General Court assembled,  
And by the authority of the same, as follows:*

1   SECTION 1. The City of Quincy finds and declares that: (a) a serious public emergency exists  
2   with respect to the housing of a substantial number of persons in the City of Quincy residing in  
3   governmentally involved housing, inasmuch as there is a threat that many low income  
4   individuals and families residing in such housing, particularly those elderly and disabled, may  
5   be threatened with displacement as a result of prepayment of mortgage financing, loss of use or  
6   rent restrictions, expiring subsidy contracts, and expected increases in rent, and there is a threat  
7   that affordable housing stock will be lost due to expiration of use or rent restrictions and such  
8   pre-payment, further exacerbating an extreme housing shortage for low-income families and  
9   individuals; (b) in adopting Chapter 40P of the General Laws, the voters expressly exempted  
10   such housing; (c) it is the City of Quincy's and the commonwealth's policy to encourage owners  
11   of this governmentally involved housing to accept incentives to keep such housing affordable

12 and avert displacement; (d) such emergency should be met by the city of Quincy and by the  
13 commonwealth immediately; therefore, this act is declared to be in the public interest.

14 SECTION 2. The following words or phrases as used in this act shall have the  
15 following meanings:

16 (A) “governmentally involved housing,” housing units which the United States, the  
17 commonwealth, or any authority created under the laws thereof (i) owns, operates, finances,  
18 subsidizes, or insures the mortgage thereon and (ii) regulates the individual rents thereof,  
19 including without limitation housing units constructed or rehabilitated pursuant to section 202,  
20 of the Housing Act of 1959, 12, U.S.C. 1701q; section 221(d) and 236 of the National Housing  
21 Act, as amended (12 U.S.C. section 17151(d) or 1715z-1); or housing units financed or  
22 subsidized pursuant to project-based programs for low-income persons under section 8 of the  
23 United States Housing Act of 1937, 42 U.S.C. section 1437f, but not including the following:

24 (1) housing units owned or acquired by the city of Quincy through tax foreclosure;

25 (2) housing units in a one to four family building or structure which is not part of a larger  
26 housing development, whether on one or more sites;

27 (3) structures containing housing units subsidized with mobile tenant-based rental assistance  
28 that would not otherwise come with the definition of governmentally involved housing;

29 (4) any housing or housing program owned, operated, managed, subsidized or administered by  
30 or through the Quincy Housing Authority

31 (5) housing units which become governmentally involved after October 1, 1976, unless the city  
32 of Quincy enacts a different date; and

33 (6) housing units that the city of Quincy may exempt from section 3 for just cause; provided,  
34 however, that in no event shall more than 20 per cent of the total rental units, which are or could  
35 be governed under this act in the city of Quincy, be exempted under this clause.

36 (7) housing units where the sole governmental involvement is the owner's participation in  
37 federal, state or municipal funded programs for home repairs, energy conservation, or lead paint  
38 abatement.

39 "Formerly governmentally involved housing," housing which was governmentally involved as  
40 of July 1, 1994, or which becomes governmentally involved housing after July 1, 1994, but  
41 which may no longer be owned, operated, financed, subsidized, mortgage-insured, or rent  
42 regulated by the United States, the commonwealth, or any authority created under the laws  
43 thereof.

44 "Low-income," an annual income which is 80 per cent or less of the median income for the area  
45 as determined by the United States Department of Housing and Urban Development, with  
46 adjustments for smaller and larger families.

47 SECTION 3. (a) Notwithstanding the provisions of any general or special law to the contrary,  
48 including, without limitation, the provisions of chapter 282 of the acts of 1974 the city of  
49 Quincy shall regulate the rent for use or occupancy of governmentally involved or formerly  
50 governmentally involved housing to the extent such regulation is not preempted by federal law

51 or by section 6 of chapter 708 of the acts of 1966 once the basis for federal or Massachusetts  
52 Housing Finance Agency rent preemption no longer exists.

53 (b) The city of Quincy shall establish as the maximum rent for governmentally involved and  
54 formerly governmentally involved housing units the rent in effect therefore on July 1, 1994 or  
55 six months before the basis for federal or Massachusetts Housing Finance Agency rent  
56 preemption lapsed, whichever is later, adjusted to insure such rent provides a fair net operating  
57 income as of the date of the loss or rent preemption.

58 SECTION 4. (a) In the city of Quincy no person shall bring an action to recover possession of a  
59 governmentally involved or formerly governmentally involved housing unit, to the extent that  
60 such regulation is not otherwise preempted by federal law or section 6 of chapter 708 of the  
61 acts of 1966, unless:

62 (1) the tenant has failed to pay the rent to which the owner is entitled;

63 (2) the tenant has violated an obligation or covenant of tenancy not inconsistent with chapter  
64 93A of the General Laws or this act other than the obligation to surrender possession upon  
65 proper notice, and has failed to cure the violation after having received written notice thereof;

66 (3) the tenant is causing, committing or permitting a nuisance in, or substantial damage to, the  
67 housing unit, or is creating substantial interference with the comfort, safety or enjoyment of the  
68 owner or other occupants of the same or any adjacent unit;

69 (4) the tenant has used or permitted use of a housing unit for illegal purposes;

70 (5) the tenant, who had a written lease or rental agreement which has terminated, has refused,  
71 after written requests or demanded by the owner, to execute a written extension or renewal  
72 thereof for a further term of like duration on terms not inconsistent with or in violation of any  
73 provision of this act;

74 (6) the tenant has refused the owner reasonable access to the housing unit for the purpose of  
75 making necessary repairs or improvements required by law or for the purpose of inspection as  
76 permitted or required by the lease or by law, or for the purpose of showing the housing unit to  
77 any prospective purchaser or mortgagee;

78 (7) the tenant holding at the end of a lease term is a subtenant not approved by the owner;

79 (8) the owner seeks to recover possession for any other just cause not in conflict with the  
80 provisions and purposes of this act or chapter 93A of the General Laws.

81 (9) The provisions of this section shall be construed as additional restrictions on the right to  
82 recover possessions of such housing units.

83 SECTION 5. In the city of Quincy no person shall remove any governmentally involved or  
84 formerly governmentally involved housing units for low-income rental housing use, without  
85 first obtaining permission for that purpose from the city of Quincy or its designee, to the extent  
86 that such provision is not preempted by federal law or section 6 of chapter 708 of the acts of  
87 1966. Such permission may be subject to terms and conditions not inconsistent with the  
88 purposes and provisions of this act, including, without limitation, (a) incentives to continue in  
89 effect the low-income use restrictions previously in place for the property and (b) where sale,  
90 lease or disposition of the property may result in the loss of all or a portion of the property for

91 low-income rental housing use, the right of an incorporated tenant association in such housing,  
92 the municipality, the local housing authority, or non-profit community development  
93 corporations to negotiate for, acquire and operate such property on substantially equivalent  
94 terms and conditions as offered or available to a bona fide third party purchaser.

95 SECTION 6. To the extent preempted by federal law or section 6 of chapter 708 of the acts of  
96 1966, the city of Quincy shall require an owner of governmentally involved housing or formerly  
97 governmentally involved housing, to affirmatively seek out and accept any prospective  
98 government housing resources, whether tenant-based or project-based, which maximize  
99 affordability of the housing units consistent with the income character of the property and the  
100 owner's right to obtain a fair net operating income for the housing accommodations.

101 SECTION 7. To extent not preempted by federal law or section 6 of chapter 708 of the acts of  
102 1966, and so long as such regulation is consistent with the owner's right to obtain a fair net  
103 operating income and the municipality's housing policy, the city of Quincy shall establish local  
104 preferences, priorities and income limits for admission to governmentally involved housing or  
105 former governmentally involved housing upon unit turnover consistent, to the extent  
106 practicable, with the income profile of the property 12 months before the date of the loss of rent  
107 preemption or the decision to not renew an expiring subsidy contract. No ordinance, by-law, or  
108 regulation shall require an owner to create a tenancy involving any person with a history of  
109 conduct which would, if repeated, be grounds for eviction from such housing.

110 SECTION 8. The city of Quincy may adopt such ordinances and promulgate such rules,  
111 regulations and orders as it may deem necessary to effectuate the purposes of this act and may  
112 grant exceptions thereto when such action would tend to maintain or increase the supply of

113 affordable housing in the city of Quincy including, without limitation, to promote the sale of the  
114 property to the Quincy Housing Authority, to a bona fide tenant organization or non-profit  
115 community development corporation under terms and conditions which would tend to maintain  
116 the income character of the property.

117 SECTION 9. Any hearings regarding matters related to regulation of rents or removal permits  
118 for governmentally involved or formerly governmentally involved housing or regarding  
119 compliance with other provisions of this act, or any ordinance, by-law, rule or regulation  
120 adopted hereunder, shall be conducted by the city of Quincy or its designee in accordance with  
121 the provisions of section 11 or chapter 30A of the General Laws.

122 SECTION 10. All decisions of the city of Quincy or its designee may be appealed to the Quincy  
123 division of the district court or the superior court for Norfolk County (if available) by any  
124 person aggrieved thereby, whether or no previously a party in the matter, within 30 calendar  
125 days after receipt of notice of such decision. Judicial review of adjudicatory decisions shall be  
126 conducted in accordance with section 14 of chapter 30A of the General Laws. The district and  
127 superior courts shall have jurisdiction to enforce the provisions of this act and any ordinance,  
128 by-law, rule or regulation adopted under this act and on application of the city of Quincy or its  
129 designee or any aggrieved person may restrain or enjoin violations of any such ordinance, rule  
130 or regulation. In the interests of justice, the court may allow any necessary parties to be joined  
131 in or to intervene in any action brought hereunder and may in its discretion allow or require an  
132 action to proceed as a class action.

133 SECTION 11. It shall be unlawful for any person to do or omit to do any action in violation of  
134 this act or any order, ordinance, rule or regulation adopted or promulgated under this act.

135 Whoever willfully violates any provision of this act or any order, ordinance, rule or regulation  
136 adopted or promulgated under this act or whoever makes a false statement in any testimony  
137 before the municipality or its designee, or whoever knowingly supplies the city of Quincy or its  
138 designee with false information in connection with a proceeding under this act, shall be  
139 punished by a fine of not more than \$400 or by imprisonment for not more than 90 days, or  
140 both. In the case of a second or subsequent offense, or where the violation continues after  
141 notice thereof, such person shall be punished by a fine of not more than \$2,000 or imprisonment  
142 for not more than one year or both.

143 SECTION 12. The provisions of this act are severable, and if any of its provisions shall be held  
144 unconstitutional or otherwise invalid by any court of competent jurisdiction, the decision of  
145 such court shall not affect or impair any of the remaining provisions.

146 SECTION 13. The provisions of M.G.L. c. 40P shall not apply to any ordinance adopted under  
147 this authority.